

REMARKS / DISCUSSION OF ISSUES

Claims 1-8, 10-34, and 36-40 are pending in the application. Claims 39-40 are newly added.

Because the applicants' prior amendments have had no impact on the determination of the patentability of the claims, the applicants herein retract and recant all prior remarks submitted in this application. The claims are amended to substantially remove limitations added in these prior amendments; claims 39-40 are added to restore previously canceled claims 9 and 35.

The applicants teach using the user's physical response to program material to facilitate the selection of subsequent programs. The claims are amended to more clearly reflect aspects of this teaching.

The Office action rejects claims 1-8, 10-30, and 36 under 35 U.S.C. 103(a) over Zawilinski (USP 5,676,138), Hoffberg et al. (USP 6,400,996, hereinafter Hoffberg), and Schmidt (USP 6,124,877). The applicants respectfully traverse this rejection.

The combination of Zawilinski, Hoffberg, and Schmidt fails to teach or suggest a processor that associates a recognized emotional response relating to a program that was being displayed when the physical reaction was sensed to provide a viewer preference, and a recommender that is configured to recommend subsequent programs based on the viewer preference, as specifically claimed in claim 1, upon which claims 2-8, 10, and 40 depend.

The combination of Zawilinski, Hoffberg, and Schmidt fails to teach or suggest determining when a program segment is being received that corresponds to a pre-selected viewer response associated with a viewer physical condition, associating a viewer preference based on the viewer response, and determining predicted preferences relating to subsequent programming based on the viewer preference, as specifically claimed in claim 10, upon which claims 11-33 depend.

The combination of Zawilinski, Hoffberg, and Schmidt fails to teach or suggest associating a viewer's emotional response with a user preference relating to the audio programming; and recommending subsequent audio programming based on the user preference, as specifically claimed in claim 34, upon which claims 36-39 depend.

Zawilinski teaches detecting a viewer's physical response to a video stimulus, and determining an association between a semantic descriptor of the stimulus to an emotion of the viewer based on the viewer's physical response. Zawilinski presents determining the association as an end to itself, presumably to determine viewer reactions to television commercials, and does not teach or suggest using the associations of viewer reactions to programs in a program recommending system.

Hoffberg teaches a program recommending system but does not teach or suggest determining the recommendation based on a viewer's reactions to prior programs. Of particular note, Hoffberg addresses recommending programs based on a viewer's existing emotional state at the time of providing the recommendation, but Hoffberg's assessment of which programs a viewer might prefer is not based on the viewer's reaction to viewing prior programs. Hoffberg does not teach or suggest using the associations of viewer reactions to programs in a program recommending system.

Schmidt teaches a system that monitors the electrical signals of a viewer's television to determine which channel the viewer is viewing. Schmidt does not teach or suggest using the associations of viewer reactions to programs in a program recommending system.

Because neither Zawilinski, Hoffberg, or Schmidt teaches or suggests using the associations of viewer reactions to programs in a program recommending system, as specifically claimed in each of the applicants' independent claims, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 1-8, 10-30, and 36 under 35 U.S.C. 103(a) over Zawilinski, Hoffberg, and Schmidt.

The Office action rejects:

claims 31-32 under 35 U.S.C. 103(a) over Zawilinski, Hoffberg, Schmidt, and Black et al. (USP 5,774,591);

claims 33 and 38 under 35 U.S.C. 103(a) over Zawilinski, Hoffberg, Schmidt, and Bentolila et al. (USPA 2003/0101449); and

claim 37 under 35 U.S.C. 103(a) over Zawilinski, Hoffberg, Schmidt, and Shinohara (USPA 2003/0005431). The applicants respectfully traverse these rejections.

Claims 31-33 are dependent upon independent claim 11, and claim 37 is dependent upon independent claim 34. In each of these rejections, the Office action relies upon Zawilinski, Hoffberg, and Schmidt for teaching the elements of claims 11 and 34. Because the combination of Zawilinski, Hoffberg, and Schmidt fails to teach the elements of claims 11 and 34, the applicants respectfully request the Examiner's reconsideration of the rejections of claims 31-33 and 37-38 under 35 U.S.C. 103(a) that rely on Zawilinski, Hoffberg, and Schmidt for providing this teaching.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the rejections of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

/Robert M. McDermott/  
Robert M. McDermott, Esq.  
Registration Number 41,508  
Phone: 804-493-0707  
Fax: 215-243-7525

**Please direct all correspondence to:**  
Yan Glickberg, Esq.  
Philips Intellectual Property and Standards  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001  
Phone: (914) 333-9618  
Fax: (914) 332-0615